

Legislating National Harmony

Tom Perez Remarks at Malaysia Conference, Day 1

Asalam Alaykum (ah-sa-lahm ah-lay-coom)

Thank you, _____, for that kind introduction, and thank you all for welcoming me to beautiful Malaysia. It is a great honor to be with you, and to have the opportunity to speak to you during such an important conference, for which I thank Attorney General Gani. And it is a particular honor to address such a distinguished group of experts, and a privilege to learn from all of you.

As you know, the questions that are the basis of this conference – how Malaysia fosters a strong, diverse, and peaceful society – are of great interest to the United States. Last July, U.S. Attorney General Eric Holder traveled to Malaysia to meet with Prime Minister Najib, Attorney General Gani, Home Minister Hishammuddin, and Inspector General of Police Ismail, and to sign a memorandum of understanding between our two countries on assistance in the field of transnational crimes. During his visit, Attorney General Holder noted the importance of the ongoing work being done by leaders across Malaysia – and the importance of participation by civil society – to find solutions to some of today’s most difficult legal questions, including how to safeguard freedom of expression and to protect the civil liberties of all citizens. And Attorney General Holder spoke repeatedly about how much the U.S. values our partnership with Malaysia, committing to continue to work together to advance shared goals.

Working to achieve national harmony and respecting civil and human rights is something the United States has long grappled with. Our Declaration of Independence declared in 1776 that “all men are created equal,” but it took 100 years and a civil war that

took hundreds of thousands of lives to end slavery; another hundred years to create legal equality for African Americans; and we struggle to this day to make equality a reality. I see this every day in my work as the chief civil rights law enforcement official for the United States.

Every nation has its own unique historical and cultural context, and lessons learned in one nation are not automatically transferable to another. But when we speak of treating people with dignity and equality, and when we talk about religious freedom, we are speaking about universal principles and universal aspirations. The Framers of the U.S Constitution provided for religious freedom, and while they were overwhelmingly Christian, wrote these provision in universal terms and explicitly stated that they extend to Christian, Jews, Muslims, Hindus, and people of all faiths.

Likewise in the area of race and ethnicity, America has long held up our Declaration of Independence's statement that all men are created equal. In Islam, there is a long tradition of complete equality of persons regardless of race, illustrated so beautifully in the Prophet Mohammed's selection of the African ex-slave Bilal (Bill-Al) to give the call to prayer.

Despite the different historical and cultural contexts of our two countries, I think there is much that we can learn from each other about achieving racial, ethnic, and religious harmony. I thus would like to share with you some of our experiences in these areas, both historically, and how they are playing out today.

To understand the U.S.'s approach to promoting harmony along racial and ethnic lines, it is important to understand the history of African American's struggles for equality. As I mentioned earlier, our founding statement that "All Men are Create Equal" was clouded by the bondage of millions of African slaves. We fought a bloody Civil War in the 1860's over the

issue of slavery between the Northern free states and the Southern slaveholding states, which resulted in the emancipation of all slaves in the United States [cut to photo of Lincoln and Emancipation Proclamation]. This development was welcomed in many parts of the world, including Tunisia, which had sent President Abraham Lincoln's administration a letter recounting the Tunisian experience with abolition of slavery. Tunisia encouraged the United States to join them, saying "Humanity invites you to eradicate from your Constitution all that can give countenance to the principle of slavery, Pity the slave. God loves the merciful among his worshippers. Be then ye merciful to those upon earth, that He who is heaven may be merciful to you."

While in the 1860's slavery was abolished and our Constitution amended to guarantee to all people the equal protection of the laws, African Americans continued to be treated as second class citizens well into the 20th century [slide of segregated water fountains]. African Americans, for example, had the right to vote, but were often either denied this right by local officials or intimidated through violence and threats of violence not to dare exercise it. Throughout the Southern states, black children went to black schools and white children to white schools. However, in the first half of the 20th century, there was a growing consciousness that the pervasive discrimination against African Americans was a profound moral wrong, and this culminated in dramatic changes in the 1950's and 1960's.

In 1954, the Supreme Court of the United States unanimously held that separate but equal schools violated the Constitution's guarantee of equal protection of the laws regardless of race. [show Brown v. Board of Education slide]. Three years later, the Civil Rights Division of the Department of Justice, which I currently lead, was created. [show slide] Our initial mandate

was to prosecute cases of attacks on African Americans asserting their rights, which local officials in the South would not investigate or prosecute.

This was the height of the Civil Rights movement in the United States, with leaders like Martin Luther King, Jr. and Malcolm X advocating for civil rights and leading marches demanding equal treatment. [show slide]. This resulted in the passage of major civil rights legislation in 1964, 1965, and 1968 [show slide of Johnson signing 1968 act]. These laws prohibited discrimination on the basis of race, religion, sex, color, and national origin in employment, housing, education, employment, access to public accommodations like movie theaters and restaurants, access to government facilities, and barred discrimination in federally funded programs, and empowered the Civil Rights Division of the Justice Department, which I now lead, to bring lawsuits to enforce them. These laws also provided protections for the fundamental right to vote for all citizens.

Congress also has over the years passed various federal laws, which the Civil Rights Division enforces, making it a crime to engage in violence or threats against persons because of race, religion, ethnicity, and other characteristics. We refer to such crimes by the shorthand “hate crimes”, but all of these crimes require more than expressions of hate: there must be violence or the threat of violence based on race, religion, or other protected characteristic.

Over the past few decades, these laws have been integral to enormous social changes in America. Where once racism and sexism was acceptable in many parts of society, it has become reviled. That is why what was once unimaginable--the election of an African-American President and the appointment of three female secretaries of state – is now a reality.

What is particularly notable is that while these laws were aimed at stopping discrimination against African Americans, the laws were written broadly to bar any

discrimination based on race, color, national origin, sex, or religion. And while race remains the largest component of our work, as America has become more ethnically and religiously diverse [show diversity slide], the universal approach of Congress in drafting these Civil Rights laws has provided us with the tools we have needed to address emerging issues affecting civil rights and our national harmony today.

The history of discrimination against African Americans led to the development of a civil rights infrastructure that we have been able to use to help protect the civil rights of everyone. For example, these laws have been critical tools in addressing discrimination and violence against Muslims, Arabs, Sikhs and South Asians after the terrorist attacks of 9/11, as I will discuss in a moment. And since the height of the civil rights movement in the 1960's, additional legislation has been enacted expanding the scope of our enforcement to include protections of persons with disabilities and to address prison conditions, police misconduct, and trafficking in persons.

The other aspect of United States history that I want to highlight is our dedication from our earliest days to the idea of religious freedom. Many people came to the colonies that would become the United States in search of religious freedom. Religious freedom is so fundamental to the American experience that it is often referred to as “the First Freedom.” The First Amendment of our Constitution, includes protection of speech, press, assembly, and protection of religious freedom. What we call the “religion clauses” of the First Amendment protect both against government intrusion into religious affairs and protect the right of the people to freely exercise their religion. While the problem of religious intolerance that was mostly in mind at the time of the American founding was intolerance between various Christian sects, the Framers of our Constitution wrote the principles broadly and explicitly stated that they applied to Jews,

Muslims, Hindus, and all others as well. Our first President, George Washington, wrote in a famous letter in 1790 to a Jewish congregation in the State of Rhode Island [show Newport slide] that religious freedom was a fundamental right that belonged to all people, rather than an indulgence granted by one class of people to another.

Our Second President, John Adams, wrote to the Bey of Tunis that while most Americans were Christian, “the Government of the United States of America is not, in any sense, founded on the Christian religion” and “has no character of enmity against the laws, religion, or tranquility of Muslims.” He further stated that “no pretext, arising from religious opinions, shall ever produce an interruption of the harmony existing between the two countries.” Our 44th President, Barack Obama (who lived for several years in Indonesia), made a similar statement more than 200 years later in his address at Cairo University [show Obama/Holder slide]. Religious freedom has long been one of our most fundamental values.

This is not to say that we have been without religious conflict or persecution of religious minorities. Roman Catholics in the 19th century faced many of the accusations that Muslims sometimes face today—that their religion was incompatible with democracy and that they would never fully embrace an American identity. This of course seems preposterous today, with one-fourth of the population being Catholic, and 6 of 9 Supreme Court Justices being Catholic, but it was seen as a real problem back then. But just as we have moved, albeit imperfectly, toward greater and greater realization of the promise of racial equality, so despite imperfections and struggles, we have continually moved toward greater religious freedom, and take great pride in this progress.

The civil rights experience of Muslim, Arabs, Sikhs and South Asians in the United States after 9/11 is a good illustration of how our values of religious freedom and equal treatment

of all persons, and a strong commitment to enforcing these values, play out in practice.

After the 9/11 terror attacks, we saw a sharp rise in attacks against Muslims and Arabs, as well as South Asians and Sikhs who were mistaken as being Muslim because of their distinctive turbans. [show Islamic Center door slide]. The Civil Rights Division aggressively prosecuted many of these cases as federal hate crimes, which carry greater sentences than comparable crimes not driven by racial or religious bias. Here, for example, is the front of a mosque damaged by a man who drove his car into it. This shows the twisted logic of people who are driven by hate—he tried to avenge an attack on innocents by driving a vehicle into a building of innocents. Fortunately no one was hurt. The man was sentenced to 27 months in prison.

The number of hate crimes against Muslims is down significantly from where it was in the months after 9/11, it is still about 5 times what it was before 9/11, at around 150 incidents per year. To put this in perspective, this number is smaller than the number of hate crimes against Jews in the U.S., even controlling for the differences in populations. Nonetheless, there are still too many of these crimes, and we continue to aggressively prosecute them. For example, we just obtained a conviction last month against a man for setting fire to a mosque in Ohio. He is expected to receive a sentence of more than 20 years in prison when he is sentenced in April.

It is also important to emphasize that while my job is to prosecute cases when things go wrong in America, so much is going right. There are an estimated 2 to 3 million Muslims in the United States, worshiping in more than 2,000 mosques. Muslims are well integrated into American society, and enjoy a high level of prosperity. Polls show that 82% of Muslims in the U.S. are satisfied with their lives, a number that is slightly higher than the number for the general population. But the same polls show Muslims in the U.S. are also very concerned about

discrimination, and we remain committed to combating discrimination in employment, housing, schools, and the other areas that we enforce.

Our civil rights laws extend beyond simply preventing discrimination, but affirmatively facilitate inclusion and integration. Our employment laws, for example, protect religious freedom while working: an employer must accommodate--make room for--employee's religious observances and practices unless it would impose an undue hardship on the employer. Thus this past summer we won a lawsuit against the City of New York that allows bus and subway drivers to wear religious headcoverings with their uniforms. We also have won cases requiring a school to allow a Muslim teacher time off to go on the Hajj, and to allow Christian and Jewish employees to observe their Sabbaths, or holy days.

We also use the civil rights laws to protect the religious rights of students. [show slide of Nashala Hearn]. Wearing headscarves in school is not usually controversial in the United States, and students typically wear them without any difficulty. But where there is a problem, our laws empower us to take action. For example, we successfully sued a school in the State of Oklahoma for refusing to allow a Muslim girl to wear a headscarf to school. We also have won the right for Muslim students to gather during the lunch hour to pray, and similarly for Christian students to gather for Bible study during free periods. And we have required schools to take action to stop bullying of students based on their religion, race, or ethnicity.

I also want to highlight our work to protect the ability of religious groups to buy property and build places of worship and religious schools. In the United States, as in many countries, local officials in cities and towns have great power in determining which types of buildings will be allowed in which neighborhoods. Unfortunately, this power is often used in arbitrary or

discriminatory ways to deny permits to religious communities. This affects Muslims, as well as Christians, Jews, Hindus, Buddhists, and others.

In response, in 2000, Congress unanimously passed a law that prohibits discriminatory or arbitrary denial of permission to religious communities to build places of worship or religious schools. The law gives the religious groups the right to sue, but it also empowers the Department of Justice to enforce its protections.

We have used this law to require cities to allow the building of churches, mosques, synagogues, a Buddhist Temple, a Sikh Gurdwara, and various religious schools. One area where we have seen a particularly large number of cases in the last two years is mosque construction. [show slide of Lilburn, Georgia]. This mosque in Georgia was denied a permit to build a mosque in a town where five Christian churches of similar size were located on roads with similar traffic patterns. Our investigation turned up evidence of anti-Muslim bias, and we brought and won a lawsuit in 2011 that will allow the mosque to be built.

Our most recent lawsuit involved the Islamic Center of Murfreesboro [show slide]. There, the local government did the right thing and approved the mosque in a zone that allowed all places of worship to build as a matter of right, just as it would a church. But some neighbors did not want the mosque, and went into state court and got a local judge to stop the congregation from legally using the mosque as it was nearing completion. We went into federal court and won the right for the mosque to move in time to celebrate Eid.

A lot of wonderful stories came out of this case. The Imam of the Murfreesboro mosque, Sheikh Osama, told me that he has received letters from people all over the United States, and American soldiers stationed abroad, saying that they support the Muslim community's efforts, and even giving them contributions of money to help finish the mosque. I went out to the grand

opening celebration, and was moved by the outpouring of support from people of all faiths—the Catholic Archbishop, Jewish leaders, Christian leaders, who had come out to support the mosque.

The story of Murfreesboro is reflective of the experience of Muslims in America generally—of community growth and integration, of acceptance from most people, but coupled with mistrust and discrimination from some. So we know that we have a lot of work to do, but our principles of freedom of religion and equality, and the infrastructure of Civil Rights enforcement that we have developed, give us the tools we need to see us through this toward ever greater national harmony.

I hope that our own experience can in some way inform your own efforts to ensure freedom of expression and foster a diverse and vibrant society. And I look forward to continuing to work with all of you in peace, partnership, and goodwill to address shared challenges and meet shared goals.

Thank you.